

NOT FOR PUBLICATION

APR 21 2008

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE MANUEL ARREOLA
HERNANDEZ; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-70454

Agency Nos. A96-357-015
A96-357-016

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 15, 2008^{**}

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’
 (“BIA”) denial of a second motion to reopen a previous denial of an application for

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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cancellation of removal. We review this decision for an abuse of discretion. *See Ray v. Gonzales*, 439 F.3d 582 (9th Cir. 2006) (citing *Singh v. Ashcroft*, 367 F.3d 1182, 1185 (9th Cir. 2004)). We conclude that the BIA did not abuse its discretion in denying the motion to reopen because petitioners' motion was untimely, as well as number-barred, and the petitioners have not provided additional evidence to support an exception to the numerical or time limits for motions to reopen. *See* 8 C.F.R. §§ 1003.2(c)(2) and (3). Accordingly, this petition for review is summarily denied in part because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

As to petitioners' request for sua sponte reopening, this court lacks jurisdiction to review the BIA's discretionary decision to deny sua sponte reopening of petitioners' case. *See* 8 C.F.R. § 3.2(a); *Ekimian v. INS*, 303 F.3d 1153 (9th Cir. 2002). We therefore dismiss this petition in part.

All pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.